

FINAL
SUMMARY REPORT
SPINY LOBSTER COMMITTEE
SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
Fort Lauderdale, FL
June 11, 2018

The Committee approved minutes from the March 2018 meeting and the agenda.

Status of Spiny Lobster Catch vs. ACL

Council staff presented an overview of 2017/2018 commercial landings for spiny lobster. Recreational landing estimates for 2017/2018 are unavailable due to the active hurricane season.

****DIRECTION TO STAFF TO NOTE YEARS WITH HURRICANE ACTIVITY OCCURRING DURING THE SPINY LOBSTER SEASON****

Spiny Lobster Advisory Panel Report

The Spiny Lobster Advisory Panel (AP) met via webinar on May 7, 2018. AP Chair Bruce Irwin provided a summary report of the meeting and presented the Spiny Lobster AP recommendations to the Committee regarding Spiny Lobster Amendment 13 and regulatory reform for spiny lobster.

Spiny Lobster Amendment 13

Staff presented a decision document for Spiny Lobster Amendment 13 which contains actions that would update federal regulations to align with State of Florida spiny lobster regulations, including: bully nets regulations, trip limits for bully nets and divers, degradable panel specifications, and artificial habitat definition and restrictions. The amendment also contains an action that would update the enhanced cooperative management procedure between Florida Fish and Wildlife Commission and the National Marine Fisheries Service. The Committee reviewed a draft public hearing document and recommendations from the Spiny Lobster Advisory Panel and the Law Enforcement Advisory Panel.

The following motions were approved:

MOTION #1: SELECT ALTERNATIVE 2 UNDER ACTION 1 AS THE PREFERRED ALTERNATIVE.

Action 1: Florida state bully net permit, marking requirements, and gear prohibitions for bully net gear in the exclusive economic zone (EEZ) off Florida.

Alternative 2: Align federal regulations to be consistent with Florida regulations for spiny lobster commercial harvesters *using bully net gear* by implementing the following:

- Require commercial bully net vessels in the EEZ off Florida to have a bully net permit from Florida
- Require that the vessel be marked with the harvester's Florida bully net permit number using reflective paint or other reflective material
- Prohibit commercial bully net vessels from having trap pullers onboard

- Prohibit the simultaneous possession of a bully net and any underwater breathing apparatus (not including dive masks or snorkels) onboard a vessel used to harvest or transport spiny lobster for commercial purposes.

APPROVED BY COMMITTEE

APPROVED BY COUNCIL

MOTION #2: UNDER ACTION 2 SELECT ALTERNATIVE 2 AND ALTERNATIVE 3 AS PREFERRED.

Action 2: Commercial spiny lobster bully net and dive gear trip limits in the EEZ off Florida.

Alternative 2. Establish a commercial daily vessel harvest and possession limit of 250 per day/vessel for spiny lobsters harvested by bully net in or from the entire EEZ off Florida.

Alternative 3. Establish a commercial daily vessel harvest and possession limit of 250 per day/vessel for spiny lobsters harvested by diving in or from the EEZ off only Broward, Dade, Monroe, Collier, and Lee Counties, Florida.

APPROVED BY COMMITTEE

APPROVED BY COUNCIL

MOTION #3: SELECT ALTERNATIVE 1 (NO ACTION) UNDER ACTION 3 AS THE PREFERRED, WITH THE INTENT TO MOVE TO THE CONSIDERED BUT REJECTED APPENDIX.

Action 3: Specification of degradable panels in spiny lobster traps in the EEZ off Florida.

Alternative 1. No Action. In the EEZ off Florida, a spiny lobster trap constructed of material other than wood must have a panel constructed of wood, cotton, or other material that will degrade at the same rate as a wooden trap. Such panel must be located in the upper half of the sides or on top of the trap, so that, when removed, there will be an opening in the trap no smaller than the diameter found at the throat or entrance of the trap.

APPROVED BY COMMITTEE

APPROVED BY COUNCIL

MOTION #4: MOVE ACTION 4 TO THE CONSIDERED BUT REJECTED APPENDIX.

Action 4: Harvesting restrictions near artificial habitat in the EEZ off Florida

APPROVED BY COMMITTEE

APPROVED BY COUNCIL

MOTION #5: SELECT ALTERNATIVE 2 UNDER ACTION 5 AS THE PREFERRED ALTERNATIVE

Action 5: Establish an enhanced cooperative management procedure for federal and Florida state agencies for the management of spiny lobster.

Alternative 2. Establish an enhanced cooperative management procedure that allows Florida to request changes to the spiny lobster federal regulations through NMFS rulemaking. Following is the proposed language (adapted from Amendment 2 to the Spiny Lobster FMP) for the procedure to be added to the existing protocol (established in Amendment 10 to the Spiny Lobster FMP):

APPROVED BY COMMITTEE

APPROVED BY COUNCIL

**Proposed Language for Enhanced Cooperative Management Protocol and Procedure
Joint Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico (Gulf)
and South Atlantic Procedure for Enhanced Cooperative Management:**

1. The Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and National Marine Fisheries Service (NMFS) acknowledge that the spiny lobster fishery is largely a State of Florida (State) fishery, which extends into the exclusive economic zone (EEZ), in terms of current participants in the directed fishery, major nursery, fishing, landing areas, and historical regulation of the fishery. As such, this fishery requires cooperative state/federal efforts for effective management through the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (Spiny Lobster FMP).
2. The Councils and NMFS acknowledge that the State is managing and will continue to manage the resource to protect and increase the long-term yields and prevent depletion of lobster stocks and that the State Administrative Procedure Act and rule implementation procedures, including final approval of the rules by Governor and Cabinet, provide ample and fair opportunity for all persons to participate in the rulemaking procedure.
3. The Florida Fish and Wildlife Conservation Commission (FWC) acknowledges that regulations proposed for implementation under any fishery management plan amendment, regulatory or otherwise, must be consistent with the management objectives of the Spiny Lobster FMP, the National Standards, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) including the National Standards, and all other applicable law. Federal rules will be implemented in accordance with the Administrative Procedure Act.
4. The Councils and NOAA Fisheries Service agree that the State may propose the following regulatory changes directly to NOAA Fisheries Service:
 - A. GEAR RESTRICTIONS:**
 - a. Limiting the number of traps that may be fished by each vessel.
 - b. Describing the construction characteristics of traps, including requiring escape gaps and their specifications/measurements.

- c. Specification of gear and vessel identification requirements including placement and materials to be used.
- d. Specification of gear that may be utilized or prohibited in the directed fishery and specification of bycatch levels that may be taken as incidental catch in non-directed fisheries.
- e. Changes to soak or removal periods and requirements for traps.

B. HARVEST RESTRICTIONS:

- a. Recreational bag and possession limits.
 - b. Changes in fishing seasons.
 - c. Limitations on use, possession, and handling of undersized lobsters.
 - d. Changes in minimum legal size.
 - e. Changes to permit requirements.
5. The State will have the responsibility for collecting and developing the information upon which to base the fishing regulations, with assistance as needed by NMFS, and cooperatively share the responsibility for enforcement with federal agencies.
6. FWC will develop alternative proposed regulations and analyses on the effects of these alternatives, hold public hearings (as required by Florida's Administrative Procedure Act), and at a final hearing select each preferred alternative rule for implementation. After approval of the regulations by the FWC Commissioners, FWC will advise the Councils and the NOAA Fisheries Service's Southeast Regional Administrator (RA) of the recommended regulations and proposed implementation date and will provide to the RA and to the Councils the analyses of the effects and impacts of the recommended and alternative regulations and summaries of public comment. ~~For regulations to be implemented by the start of the fishing season (currently August 6), FWC must complete these actions on or before February 1.~~ The Councils may submit the proposed regulations and supporting analyses to the Scientific and Statistical Committees (SSC) for review of the scientific analyses. The Councils may also submit the proposed regulations and supporting analyses to the advisory panels for comment.
7. The RA will review the proposed regulations, analyses, and public record, and will notify the Councils and FWC if the RA preliminarily determines that the regulations are consistent with this Protocol and Procedure, the objectives of the Spiny Lobster FMP, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) including the National Standards, and other applicable law. If the Councils agree with the RA's preliminary determination, the Councils will deem the proposed regulations as necessary or appropriate, and the RA will proceed with implementation of the proposed regulations as specified in Paragraph 9. If the Councils do not agree with the RA's preliminary determination, the RA will not proceed with implementation of the proposed regulations until this issue has been resolved. If in the judgment of the RA, the proposed regulations or the supporting record are not consistent with this Protocol and Procedure or the Spiny Lobster FMP objectives or the applicable law, the RA will immediately notify the Councils and FWC of the deficiencies in the regulations or supporting record.

FWC may submit, for the RA's review, additional information or analyses to correct the deficiencies in the record.

~~8. The rules will apply to the EEZ for the management area from North Carolina through Texas, unless the RA or the Councils determine those rules may adversely impact other state and federal fisheries. In that event, the RA may limit the application of the rule, as necessary, to address the problem.~~

9. When the RA has preliminarily concluded the proposed regulations are acceptable and the Councils have deemed the proposed regulations as necessary and appropriate, the RA will draft and publish a proposed rule for public comment. After reviewing the public comments, the RA may, in consultation with the Councils, make appropriate revisions to the proposed regulations prior to publishing a final rule in the Federal Register. The effective date of rules promulgated under this procedure will be the starting date of the next fishing season following publication of the final rule, unless otherwise agreed upon by FWC, the Councils, and the RA.

10. NOAA Fisheries Service and the Councils agree that their staffs will prepare the proposed and final rules and, based on Florida's analyses of any impacts, the associated National Environmental Policy Act documentation and other documents required to support the rule.

****DIRECTION TO STAFF TO REMOVE LANGUAGE REQUIRING FWC TO SUBMIT REGULATORY MATERIALS TO NMFS BY FEBRUARY FIRST FOR IMPLEMENTATION PRIOR TO THE START OF THE SPINY LOBSTER FISHING YEAR FROM THE ENHANCED COOPERATIVE MANAGEMENT PROCEDURE AND PROTOCOL****

****DIRECTION TO STAFF TO REMOVE BULLET POINT NUMBER EIGHT FROM THE ENHANCED COOPERATIVE MANAGEMENT PROCEDURE AND PROTOCOL****

**MOTION #6: APPROVE SPINY LOBSTER AMENDMENT 13 FOR PUBLIC HEARINGS.
APPROVED BY COMMITTEE
APPROVED BY COUNCIL**

Note: Council staff drafts the timing and task motion based on Committee action. If points require clarification, they will be added to the draft motion. The Committee should review this wording carefully to be sure it accurately reflects their intent prior to making the motion.

Timing and Task(s)

MOTION # 8 ADOPT THE FOLLOWING TIMING AND TASKS:

1. Prepare Spiny Lobster Amendment 13 for **web-based** public hearings and the September Council meeting.

~~2. Hold public hearing webinars for Spiny Lobster Amendment 13.~~

3. Revise the language for the enhanced cooperative management protocol and procedure as directed.

APPROVED BY COUNCIL